

103D CONGRESS  
1ST SESSION

# S. 815

To amend the Federal Water Pollution Control Act to provide special funding to States for implementation of national estuary conservation and management plans, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 22 (legislative day, APRIL 19), 1993

Mr. LIEBERMAN (for himself, Mr. DODD, Mr. MOYNIHAN, and Mr. D'AMATO) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Federal Water Pollution Control Act to provide special funding to States for implementation of national estuary conservation and management plans, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Water Pollution Con-  
5       trol and Estuary Restoration Financing Act”.

6       **SEC. 2. FINDINGS AND PURPOSES.**

7       (a) FINDINGS.—Congress finds that—

1           (1) the estuaries of the United States are a  
2       vital natural resource to which many regional econo-  
3       mies are closely tied;

4           (2) many of the estuaries of the United States  
5       are under a severe threat from point source pollution  
6       and polluted run-off (nonpoint source pollution) and  
7       from habitat alteration and destruction;

8           (3) only through expanded investments in waste  
9       water treatment and other water and sediment pol-  
10      lution control and prevention efforts can the environ-  
11      mental and economic values of the estuaries of the  
12      United States be restored and protected;

13          (4) the national estuary program created under  
14      section 320 of the Federal Water Pollution Control  
15      Act (33 U.S.C. 1330) has significantly advanced the  
16      understanding of the declining condition of the estu-  
17      aries of the United States;

18          (5) the national estuary program has also pro-  
19      vided precise information about the corrective and  
20      preventative measures required to reverse the deg-  
21      radation of water and sediment quality and to halt  
22      the alteration and destruction of vital habitat in the  
23      estuaries of the United States;

24          (6) the level of funding available to States, mu-  
25      nicipalities, and the Environmental Protection Agen-

1 cy for implementation of approved conservation and  
2 management plans is inadequate, and additional fi-  
3 nancial resources must be provided;

4 (7) funding for implementation of approved  
5 conservation and management plans should be pro-  
6 vided under the State revolving loan fund authorized  
7 in title VI of the Federal Water Pollution Control  
8 Act (33 U.S.C. 1381 et seq.); and

9 (8) authorization levels for State revolving loan  
10 fund capitalization grants should be increased by an  
11 amount necessary to ensure the achievement of the  
12 goals of the Federal Water Pollution Control Act.

13 (b) PURPOSES.—The purposes of this Act are—

14 (1) to expand and strengthen efforts to combat  
15 the serious and growing water and sediment quality  
16 problems in estuaries of national significance identi-  
17 fied under the Federal Water Pollution Control Act  
18 (33 U.S.C. 1251 et seq.);

19 (2) to provide significant levels of Federal as-  
20 sistance to States and municipalities seeking to im-  
21 plement comprehensive conservation and manage-  
22 ment plans for those estuaries;

23 (3) to reauthorize section 320 of the Federal  
24 Water Pollution Control Act (33 U.S.C. 1330) in  
25 order to improve the development and implementa-

1       tion of comprehensive conservation and management  
2       plans for those estuaries; and

3           (4) to extend and increase Federal support for  
4       the State water pollution control revolving fund pro-  
5       gram in order to address various water and sediment  
6       quality problems in the waters of the United States.

7   **SEC. 3. EXTENSION OF WATER POLLUTION CONTROL RE-**  
8                   **VOLVING LOAN FUND PROGRAM.**

9       (a) ALLOTMENT FORMULA.—Section 604(a) of the  
10   Federal Water Pollution Control Act (33 U.S.C. 1384(a))  
11   is amended—

12           (1) by striking “Sums authorized” and insert-  
13       ing “Except as provided in section 608, sums au-  
14       thorized”; and

15           (2) by striking “and 1990” and inserting  
16       “through 1999”.

17       (b) FUNDING.—Section 607 of such Act (33 U.S.C.  
18   1387) is amended by striking “the following sums:” and  
19   all that follows through the end of the section and insert-  
20   ing the following: “\$4,000,000,000 for each of fiscal years  
21   1994 and 1995, and \$5,000,000,000 for each of fiscal  
22   years 1996 through 2000.”.

1 **SEC. 4. FUNDING FOR IMPLEMENTATION OF ESTUARY CON-**  
 2 **SERVATION AND MANAGEMENT PLANS.**

3 Title VI of the Federal Water Pollution Control Act  
 4 (33 U.S.C. 1381 et seq.) is amended by adding at the end  
 5 the following new section:

6 **“SEC. 608. CAPITALIZATION GRANTS TO STATES FOR IM-**  
 7 **PLEMENTING ESTUARY CONSERVATION AND**  
 8 **MANAGEMENT PLANS.**

9 “(a) SET-ASIDE FOR IMPLEMENTING APPROVED  
 10 PLANS.—

11 “(1) SET-ASIDE.—

12 “(A) IN GENERAL.—Of amounts appro-  
 13 priated under the authority of section 607 for  
 14 each fiscal year, the applicable percentage  
 15 under subparagraph (B) shall be used by the  
 16 Administrator to make capitalization grants  
 17 under this title to qualified States.

18 “(B) PERCENTAGE.—For purposes of sub-  
 19 section (A), the applicable percentage is—

20 “(i) 2.5 percent for fiscal year 1994;

21 “(ii) 5 percent for fiscal year 1995;

22 “(iii) 7.5 percent for fiscal year 1996;

23 “(iv) 10 percent for fiscal year 1997;

24 “(v) 12.5 percent for fiscal year 1998;

25 “(vi) 15 percent for fiscal year 1999;

26 and

1 “(vii) 15 percent for fiscal year 2000.

2 “(2) ALLOCATION.—Of the amounts required  
3 under paragraph (1) to be used for grants to quali-  
4 fied States for a fiscal year, the Administrator shall  
5 allocate to each qualified State an amount equal  
6 to—

7 “(A) the total of the amounts required  
8 under paragraph (1) to be used for the grants  
9 for the fiscal year; multiplied by

10 “(B) the percentage specified by the Ad-  
11 ministrator for the fiscal year for the State  
12 under paragraph (3)(B).

13 “(3) DETERMINATION OF STATE NEEDS.—Not  
14 later than 120 days after the date on which all  
15 qualified States have submitted under paragraph  
16 (4)(A) estimates of the needs of the States for finan-  
17 cial assistance for a fiscal year, the Administrator  
18 shall—

19 “(A) determine the needs of each qualified  
20 State for financing implementation of approved  
21 estuary plans in the fiscal year, based on the  
22 State estimates; and

23 “(B) submit to Congress a report describ-  
24 ing the needs for all qualified States, including  
25 specifying for each qualified State a percentage

1 for purposes of paragraph (2)(B) representing  
2 the needs of the qualified State relative to the  
3 needs of all qualified States.

4 “(4) STATE ESTIMATE OF NEEDS.—

5 “(A) SUBMISSION.—Not later than July 1  
6 of each year, each qualified State shall submit  
7 to the Administrator an estimate of the needs  
8 of the State for financial assistance for imple-  
9 menting, monitoring, and enforcing approved  
10 estuary plans in the next fiscal year. The esti-  
11 mates may be included in the intended use plan  
12 of a qualified State under section 606(c), and  
13 shall maximize economical planning, design,  
14 and construction.

15 “(B) CONSULTATION.—In preparing an es-  
16 timate of needs under this paragraph, a quali-  
17 fied State shall consult with each management  
18 conference that is implementing an approved  
19 estuary plan under section 320 and of which  
20 the State is a member.

21 “(C) APPROVAL REQUIRED.—A qualified  
22 State may not submit an estimate of need  
23 under this paragraph unless the estimate is ap-  
24 proved by each management conference under  
25 section 320 that is implementing an approved

1 estuary plan and of which the State is a mem-  
2 ber.

3 “(5) FAILURE TO SUBMIT ESTIMATE.—A quali-  
4 fied State that does not submit an estimate for a fis-  
5 cal year in accordance with paragraph (4) shall not  
6 be eligible for any allocation under paragraph (2) for  
7 that fiscal year.

8 “(b) SEPARATE ACCOUNT.—

9 “(1) ESTABLISHMENT OF ACCOUNT.—A quali-  
10 fied State shall establish a separate account in the  
11 water pollution control revolving fund established by  
12 the State under this title, which shall be known as  
13 an ‘Estuary Account’. Amounts of grants to a quali-  
14 fied State under subsection (a) shall be deposited  
15 into the Estuary Account established by the State.

16 “(2) USE.—A qualified State may use amounts  
17 in its Estuary Account of the State only for provid-  
18 ing assistance for the purpose of implementing ap-  
19 proved estuary plans that apply to the State.

20 “(c) TYPES OF ASSISTANCE.—

21 “(1) IN GENERAL.—Except as otherwise pro-  
22 vided by State law and subject to paragraph (2),  
23 amounts in the Estuary Account of a qualified State  
24 may be used only for providing the types of assist-  
25 ance described in section 603(d).



1 “(2) SPECIAL RULES.—

2 “(A) EXTENDED AMORTIZATION PE-  
3 RIOD.—Notwithstanding section 603(d)(1)(A),  
4 a loan made by a qualified State with amounts  
5 in the Estuary Account of the State may be for  
6 a term of not to exceed 40 years or the useful  
7 life of any facility constructed with the loan,  
8 whichever is less, if the borrower demonstrates  
9 to the State that the borrower is experiencing  
10 financial hardship.

11 “(B) PRINCIPAL SUBSIDIES.—In addition  
12 to the types of assistance authorized by section  
13 603(d), a qualified State may use amounts of  
14 interest earned on amounts in the Estuary Ac-  
15 count of the State to subsidize up to 90 percent  
16 of the principal portion of the amount of debt  
17 service of an entity referred to in section  
18 603(c)(1) that, notwithstanding the availability  
19 of interest free loans under section  
20 603(d)(1)(A) and extended amortization under  
21 paragraph (1), the State determines is finan-  
22 cially unable to carry out a project that is nec-  
23 essary for the implementation of an approved  
24 estuary plan.

1       “(d) STATE MATCHING FUNDS.—A qualified State  
 2 shall deposit into the Estuary Account of the State an  
 3 amount from State funds equal to at least 20 percent of  
 4 amounts deposited into the account in the form of capital-  
 5 ization grants to the State under this section.

6       “(e) DEFINITIONS.—In this section:

7               “(1) APPROVED ESTUARY PLAN.—The term  
 8 ‘approved estuary plan’ means a comprehensive con-  
 9 servation and management plan approved by the Ad-  
 10 ministrator under section 320(h).

11              “(2) ESTUARY ACCOUNT.—The term ‘Estuary  
 12 Account’ means a separate account established by a  
 13 qualified State under subsection (b) in its water pol-  
 14 lution control revolving fund of the State.

15              “(3) QUALIFIED STATE.—The term ‘qualified  
 16 State’ means a State that—

17                      “(A) is subject to an approved estuary  
 18 plan;

19                      “(B) has established an estuary account in  
 20 accordance with subsection (b); and

21                      “(C) has fulfilled the responsibilities of the  
 22 State under section 320 with respect to each  
 23 management conference under such section of  
 24 which the State is a member.”.

1 **SEC. 5. DISCRETIONARY GRANTS FOR IMPLEMENTATION**  
2 **OF ESTUARY CONSERVATION AND MANAGE-**  
3 **MENT PLANS.**

4 (a) IN GENERAL.—Section 320 of the Federal Water  
5 Pollution Control Act (33 U.S.C. 1330) is amended—

6 (1) by redesignating subsection (k) as sub-  
7 section (l); and

8 (2) by inserting after subsection (j) the follow-  
9 ing new subsection:

10 “(k) GRANTS FOR IMPLEMENTATION OF CONSERVA-  
11 TION AND MANAGEMENT PLANS.—

12 “(1) IN GENERAL.—The Administrator shall  
13 make grants to State, interstate, and regional water  
14 pollution control agencies and entities, State coastal  
15 zone management agencies, interstate agencies,  
16 other public or nonprofit agencies, institutions, orga-  
17 nizations, Indian tribes, and individuals for imple-  
18 mentation of conservation and management plans  
19 approved under this section.

20 “(2) PURPOSES.—Grants under this subsection  
21 shall be made to assist in the aspects of implementa-  
22 tion of the plans that involve innovative technology,  
23 research and development, education, pollution pre-  
24 vention, comprehensive land use planning, and other  
25 activities not generally funded by the State under  
26 this title.

1           “(3) FEDERAL SHARE.—The amount of grants  
2       to any person (including a State, interstate, or re-  
3       gional agency or entity) under this subsection for a  
4       fiscal year shall not exceed 75 percent of the cost of  
5       implementation of the plans.

6           “(4) AUTHORIZATION OF APPROPRIATIONS.—  
7       There is authorized to be appropriated to the Envi-  
8       ronmental Protection Agency to carry out this sub-  
9       section not to exceed \$50,000,000 per fiscal year for  
10      each of fiscal years 1994 through 2000.”.

11      (b) FUNDING FOR INTERIM ACTIONS.—Section  
12      320(g)(2) of such Act (33 U.S.C. 1330(g)(2)) is amended  
13      by inserting before the period the following: “, and for ap-  
14      propriate interim actions that are adopted by the manage-  
15      ment conference and approved in accordance with sub-  
16      section (h) to protect the water and sediment quality of  
17      the estuary that is the subject of such a plan”.

18      (c) GRANT REPORTING.—Section 320(h) of such Act  
19      (33 U.S.C. 1330(h)) is amended by striking “subsection  
20      (g)” and inserting “subsection (i) and that receives a  
21      grant under subsection (k)”.

22      (d) CONFORMING AMENDMENT.—Section 320(g) of  
23      such Act (33 U.S.C. 1330(g)) is amended by inserting  
24      “DEVELOPMENT” before “GRANTS.—”.

1 **SEC. 6. EXTENSION OF CONSERVATION AND MANAGEMENT**

2 **PLAN DEVELOPMENT GRANT PROGRAM.**

3 Section 320(i) of the Federal Water Pollution Control  
4 Act (33 U.S.C. 1330(i)) is amended—

5 (1) by inserting “and \$28,000,000 per fiscal  
6 year for each of fiscal years 1992 through 2000”  
7 after “and 1991”; and

8 (2) by inserting “for fiscal years 1987 through  
9 1991, and \$8,000,000 per fiscal year of the sums  
10 authorized to be appropriated under this subsection  
11 for fiscal years 1992 through 2000,” before “to the  
12 Administrator of the National”.

13 **SEC. 7. NATIONAL ESTUARY PROGRAM IMPROVEMENT.**

14 (a) **MANAGEMENT PLANS.**—Section 320(b) of the  
15 Federal Water Pollution Control Act (33 U.S.C. 1330(b))  
16 is amended—

17 (1) by striking the matter preceding paragraph  
18 (1) and inserting the following:

19 “(b) **PURPOSES OF CONFERENCE.**—The purpose of  
20 any management conference convened with respect to an  
21 estuary under this section shall be to ensure, through a  
22 comprehensive planning process, full coordination, and full  
23 implementation of the requirements of sections 303,  
24 304(l), 305(b), 319, 402 and 404 and the Coastal Zone  
25 Management Act of 1972 (42 U.S.C. 1451 et seq.), and  
26 to identify, plan, and ensure implementation of additional

1 measures necessary to achieve compliance with water qual-  
2 ity standards and to protect existing and designated uses  
3 of coastal waters. To achieve these purposes a manage-  
4 ment conference shall—”;

5 (2) by redesignating paragraphs (1), (2), (3),  
6 (4), (5), (6), and (7) in order as paragraphs (2), (3),  
7 (4), (6), (8), (10), and (11), respectively;

8 (3) by inserting before paragraph (2), as so re-  
9 designated, the following new paragraph:

10 “(1) conduct within one year after the conven-  
11 ing of the conference a literature survey to identify  
12 existing information on the environmental health of  
13 the estuary;”;

14 (4) by inserting after paragraph (4), as so re-  
15 designated, the following:

16 “(5) identify within 3 years after the convening  
17 of the conference the major environmental problems  
18 and priorities that the comprehensive conservation  
19 and management plan will address;”;

20 (5) in paragraph (6), as so redesignated, by in-  
21 serting after “plan” the following: “, within 5 years  
22 after the date on which the management conference  
23 is convened and in accordance with the applicable  
24 guidance document published under subsection (e),”;

1           (6) in paragraph (6), as so redesignated, by in-  
2       serting “(including policies enforceable under State  
3       law)” after “actions”;

4           (7) by inserting after paragraph (6), as so re-  
5       designated, the following:

6           “(7) submit to the Administrator in the first  
7       year following the convening of the conference, an  
8       initial 5-year budget for the development of the con-  
9       servation and management plan, and revise the  
10      budget on an annual basis;”;

11          (8) by inserting after paragraph (8), as so re-  
12      designated, the following new paragraph:

13          “(9) conduct an analysis, within 3 years after  
14      the convening of the conference, of any changes to  
15      State statutory authority that will be required to im-  
16      plement the conservation and management plan, and  
17      update the analysis on an annual basis thereafter;”;

18          (9) in paragraph (10), as so redesignated, by  
19      striking “and” after the semicolon;

20          (10) in paragraph (11), as so redesignated, by  
21      striking the period and inserting a semicolon;

22          (11) by inserting after paragraph (11), as so  
23      redesignated, the following new paragraph:

24          “(12) identify all Federal activities (including  
25      development projects, financial assistance programs,

1 and licensing and permitting activities) that may af-  
2 fect the requirements and objectives of the conserva-  
3 tion and management plan developed under this sec-  
4 tion, and ensure the coordinated implementation of  
5 the plan with respect to the activities;

6 “(13) identify all pollutants and water bodies  
7 for which development of maximum daily loads are  
8 necessary pursuant to section 303, and establish a  
9 schedule whereby all the total maximum daily loads  
10 and wasteload and load allocations shall be com-  
11 pleted within 5 years of approval of a conservation  
12 and management plan pursuant to this section;

13 “(14) ensure that all permits issued under sec-  
14 tion 402 are current for significant dischargers with-  
15 in an estuary subject to a conservation and manage-  
16 ment plan, and that, if multiple dischargers affect a  
17 single segment of the estuary, the dischargers are  
18 placed on simultaneous permit issuance schedules to  
19 allow for efficient wasteload allocation;

20 “(15) ensure that if an estuary subject to a  
21 conservation and management plan is affected by  
22 combined sewer overflows, development and imple-  
23 mentation of a combined sewer overflow abatement  
24 plan is included in the conservation and manage-  
25 ment plan; and



1 “(16) identify portions of the conservation and  
 2 management plan developed under this section that  
 3 should be included in a State coastal zone manage-  
 4 ment program approved under section 306(c) of the  
 5 Coastal Zone Management Act of 1972 (16 U.S.C.  
 6 1455(c)) and make appropriate recommendations to  
 7 the Governor and the Under Secretary for the inclu-  
 8 sion.”; and

9 (12) in the matter following paragraph (16) (as  
 10 added by paragraph (11)) by striking “paragraph  
 11 (7)” and inserting “paragraph (11)”.

12 (b) FISHERIES AND WILDLIFE.—

13 (1) MEMBERS OF CONFERENCE.—Section  
 14 320(c) of such Act (33 U.S.C. 1330(c)) is amend-  
 15 ed—

16 (A) in paragraph (3), by inserting after  
 17 “Federal agency,” the following: “including  
 18 those Federal agencies with responsibility for  
 19 conserving and protecting living resources in-  
 20 cluding fish, shellfish, and wildlife,”; and

21 (B) in paragraph (5), by inserting “includ-  
 22 ing the agricultural industry,” after “indus-  
 23 tries,”.

24 (2) RESEARCH.—Section 320(j)(2) of such Act  
 25 (33 U.S.C. 1330(j)(2)) is amended by inserting

1 “and the Director of the United States Fish and  
2 Wildlife Service” after “Administration”.

3 (c) PARTICIPATION OF MUNICIPALITIES.—Section  
4 320(c)(4) of such Act (33 U.S.C. 1330(c)(4)) is amended  
5 by striking “local governments” and inserting “munici-  
6 palities”.

7 (d) PARTICIPATION OF ENVIRONMENTAL ORGANIZA-  
8 TIONS.—Section 320(c)(5) of such Act (33 U.S.C.  
9 1330(c)(5)) is amended by inserting “, including environ-  
10 mental organizations” after “the general public”.

11 (e) DUTIES OF MEMBERS OF CONFERENCE.—Sec-  
12 tion 320 of such Act (33 U.S.C. 1330) is amended—

13 (1) by redesignating subsection (d), (e), (f), (g),  
14 (h), (i), (j), (k), and (l) as subsection (f), (g), (h),  
15 (i), (j), (k), (l), (m), and (n), respectively; and

16 (2) by inserting after subsection (c) the follow-  
17 ing new subsection:

18 “(d) DUTIES OF MEMBERS.—

19 “(1) ADMINISTRATOR.—

20 “(A) IN GENERAL.—The Administrator  
21 shall provide necessary levels of funding and  
22 staff resources to carry out the functions of the  
23 Administrator related to the development, ap-  
24 proval, implementation, and monitoring of a

1 conservation and management plan under this  
2 section and of approved interim measures.

3 “(B) ANALYSIS OF FEDERAL NEEDS.—Not  
4 later than 120 days after the date of the enact-  
5 ment of this subsection, the Comptroller Gen-  
6 eral of the United States shall submit to Con-  
7 gress and to the Administrator an analysis of  
8 the needs of the Environmental Protection  
9 Agency for additional personnel and administra-  
10 tive resources necessary to fully carry out the  
11 duties of the Environmental Protection Agency  
12 under this section. The analysis shall include  
13 recommendations regarding necessary addi-  
14 tional authorizations and appropriations.

15 “(C) POLICY AND TECHNICAL LIAISON.—  
16 The Administrator or the designee of the Ad-  
17 ministrator shall, among other functions per-  
18 formed with respect to management con-  
19 ferences, serve as policy and technical liaison  
20 for all participants in management conferences.

21 “(2) UNDER SECRETARY.—The Under Sec-  
22 retary of Commerce for Oceans and Atmosphere  
23 shall provide the necessary levels of funding and  
24 staff resources to carry out the functions of the  
25 Under Secretary under this section, and shall coordi-

1       nate the activities of the Under Secretary with each  
2       management conference convened under this section.

3       “(e) GUIDANCE DOCUMENT.—

4               “(1) IN GENERAL.—Not later than 9 months  
5       after the date of the enactment of this subsection,  
6       the Administrator shall issue a guidance document  
7       that establishes requirements for—

8               “(A) management conferences to follow in  
9       developing, approving, implementing, and mon-  
10      itoring conservation and management plans;  
11      and

12              “(B) approving and implementing interim  
13      actions to protect the water quality of the estu-  
14      ary for which a conservation and management  
15      plan is developed.

16              “(2) PUBLICATION OF PROPOSED DOCU-  
17      MENT.—The Administrator shall publish a proposed  
18      guidance document under this subsection by not  
19      later than 6 months after the date of the enactment  
20      of this subsection.”.

21      (f) MANAGEMENT CONFERENCES.—Subsection (g) of  
22      section 320 of such Act, as redesignated by subsection  
23      (e)(1), is amended to read as follows:

24              “(g) PERIOD OF CONFERENCE.—A management con-  
25      ference convened under this section shall be convened for

1 a period of at least 5 years. On approval of a plan under  
 2 subsection (h), the Administrator shall, for purposes of  
 3 implementing the plan, extend a conference for an addi-  
 4 tional 5 years if the affected Governor or Governors con-  
 5 cur in the extension and the extension is necessary to meet  
 6 the requirements of this section and section 608.”.

7 (g) APPROVAL AND IMPLEMENTATION OF CONSERVA-  
 8 TION AND MANAGEMENT PLANS; PUBLIC REVIEW AND  
 9 COMMENT.—Subsection (h) of section 320 of such Act,  
 10 as redesignated by subsection (e)(1), is amended to read  
 11 as follows:

12 “(h) APPROVAL AND IMPLEMENTATION OF PLANS  
 13 AND INTERIM ACTIONS.—

14 “(1) APPROVAL OF PLANS.—Not later than 120  
 15 days after the date of the completion of a conserva-  
 16 tion and management plan and after providing for  
 17 public review and comment, the Administrator shall  
 18 approve the plan if—

19 “(A) the plan complies with any applicable  
 20 guidance document published under subsection  
 21 (c);

22 “(B) the plan meets the requirements of  
 23 this section;

24 “(C) the plan specifies the implementation  
 25 responsibilities, including funding responsibil-

ities and implementation schedules, of the Federal Government and of State and local governments that participated in the development of the plan;

“(D) the affected Governor or Governors concur; and

“(E) the affected Governor or Governors certify that they have the authority to undertake the actions called for in the plan.

“(2) APPROVAL OF INTERIM ACTIONS.—The Administrator shall approve an interim action to protect the water quality of an estuary for which a conservation and management plan is being developed if it meets the requirements set forth in subparagraphs (A) through (D) of paragraph (1).

“(3) PUBLIC REVIEW AND COMMENT.—The Administrator shall, before approving a conservation and management plan, publish in the Federal Register a draft of the plan and provide an opportunity for public review and comment on the plan.

“(4) IMPLEMENTATION.—On approval of a conservation and management plan or interim actions under this section, the Administrator, as a non-discretionary duty, shall ensure that the Federal responsibilities and commitments under the plan or in-

1        interim action are complied with and implemented in  
2        accordance with the guidance document. The Admin-  
3        istrator, in conjunction with and with the assistance  
4        of the management conference, shall—

5                “(A) provide assistance to the management  
6                conference, including administrative and tech-  
7                nical assistance, for implementation of the plan  
8                or interim action;

9                “(B) coordinate Federal programs nec-  
10                essary for implementing the plan or interim ac-  
11                tion;

12                “(C) make recommendations to the man-  
13                agement conference on enforcement and tech-  
14                nical assistance activities necessary to ensure  
15                compliance with and implementation of the plan  
16                or interim action;

17                “(D) collect and make available to the pub-  
18                lic, publications and other forms of information  
19                relating to implementation of the plan or in-  
20                terim action; and

21                “(E) make grants under the authority pro-  
22                vided by this title.

23                “(5) FUNDING.—Funds authorized to be appro-  
24                priated under titles II and VI, section 319, and this  
25                section may be used in accordance with the applica-

1       ble requirements of this Act to assist States with the  
2       implementation of conservation and management  
3       plans under this section. Funds authorized to be ap-  
4       propriated under section 319 and this section may  
5       also be used in accordance with the applicable re-  
6       quirements of this Act to assist States with the im-  
7       plementation of interim actions under this section.

8               “(6) CONSISTENCY.—On approval of a con-  
9       servation and management plan or interim action  
10      under this section, each Federal agency activity  
11      identified pursuant to subsection (b)(10), with re-  
12      spect to the plan or interim action, shall be con-  
13      ducted in a manner that is consistent with the en-  
14      forceable requirement of the plan or interim ac-  
15      tion.”.

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